

EXHIBIT B

to

**DECLARATION OF SUSAN PHILIP, MD, MPH, IN
SUPPORT OF DEFENDANT CITY AND COUNTY
OF SAN FRANCISCO'S OPPOSITION TO
PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

Fact Sheet:

California Law and Syringe Services Programs



California law prohibits the sale, distribution, or possession of materials defined as “drug paraphernalia.” However, for many years the state has recognized the scientific consensus that access to sterile syringes and other safer drug use equipment protects people from HIV and viral hepatitis infection, injury, and other negative health consequences. Consequently, state law makes several broad exceptions to drug paraphernalia laws, allowing staff and volunteers of syringe services programs (SSPs), physicians, and pharmacists to legally distribute such equipment, and people who use drugs to legally possess them.

SSPs also commonly distribute the opioid overdose antidote naloxone, a safe, nontoxic, easy-to-administer medication that can reverse an overdose and prevent death. California law allows dispensing and possession of naloxone without a patient-specific prescription.

1. Syringe Possession

Access to new, sterile syringes interrupts HIV and viral hepatitis transmission and reduces the risk of other infections and injury among people who inject drugs. Enabling people who use drugs to protect their health and safety is essential to meet California’s public health goals.

Key Points:

- It is lawful to possess syringes for personal use in California. Syringes possessed for personal use are not defined as “drug paraphernalia” pursuant to Health and Safety Code Sections 11364 and 11364.5.
- It is also lawful to possess syringes that have been containerized for safe disposal (e.g. in a sharps container). However, syringes do not need to be containerized in order to be lawful to possess.
- There is no limit on the number of syringes a person may possess.
- There is no age restriction on syringe possession.
- It is lawful to possess syringes obtained from any source.
- The law does not require people to have documentation of where they obtained syringes, such as a receipt, prescription, or identification card.

State Law Excerpt:**Health and Safety Code Section 11364:**

(a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance that is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) Until January 1, 2026, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, this section shall not apply to the possession solely for personal use of hypodermic needles or syringes.

2. Syringe Distribution

SSPs are California's primary response to injection-related public health issues, and syringe access opens doors to a wide range of other support and care. Physicians and pharmacists may also dispense syringes without a prescription, and are an important source of safer injection supplies and care, especially in places where SSPs do not exist.

Key Points:

- Syringes may be dispensed without a prescription by physicians, pharmacists, or staff and volunteers of SSPs authorized by CDPH or a city or county government.
- There is no limit on the number of syringes that may be dispensed to a person by one of the entities described above.
- SSPs and pharmacies are required to make syringe collection and disposal services available when dispensing syringes.
- Physicians and pharmacists may dispense syringes to anyone age 18 or older.
- There is no age restriction to receive syringes from an SSP.

State Law Excerpt:

Syringe Distribution by SSPs (Health and Safety Code Section 121349):

(b) In order to reduce the spread of HIV infection and bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city, county, or city and county upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c) In order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly bloodborne infections, the State Department of Public Health may, notwithstanding any other law, authorize entities that provide services set forth in paragraph (1) of subdivision (d), and that have sufficient staff and capacity to provide the services described in Section 121349.1, as determined by the department, to apply for authorization under this chapter to provide hypodermic needle and syringe exchange services consistent with state standards in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes.

Syringe Distribution by Physicians and Pharmacists (Business and Professions Code 4145.5):

(b) Notwithstanding any other provision of law, and until January 1, 2026, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, a physician or pharmacist may, without a prescription or a permit, furnish hypodermic needles and syringes for human use to a person 18 years of age or older, and a person 18 years of age or older may, without a prescription or license, obtain hypodermic needles and syringes solely for personal use from a physician or pharmacist.

3. Other Safer Drug Use Materials Distributed for Public Health Purposes

Any materials in which drugs are prepared or administered may potentially transmit disease or cause injury if shared or reused. Consequently, California law allows CDPH and local health departments to approve the distribution and possession of such materials for public health purposes. Currently, these materials include, but are not limited to, cotton filters, containers for mixing injectable drugs ("cookers"), tourniquets, alcohol swabs, sterile water and saline, sharps disposal containers, pipes and foil suitable for smoking opioids or methamphetamine, straws, and other items.

Key Points:

- The California Department of Public Health (CDPH) and local health departments may designate materials for distribution by SSPs as necessary for disease, injury, or overdose prevention. Such materials are not considered “drug paraphernalia” and may be lawfully possessed by staff, volunteers, and participants of SSPs.
- The CDPH Office of AIDS designates all materials included in its Syringe Supplies Clearinghouse, which provides support for SSPs, as necessary for the prevention of disease, injury, or overdose.

State Law Excerpt:**Health and Safety Code Section 121349.1:**

Staff and volunteers participating in an [SSP] authorized by the state, county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability during participation in an [SSP]. Program participants shall not be subject to criminal prosecution for possession of needles or syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability acquired from an authorized [SSP].

4. Naloxone

SSPs play an important role in California’s efforts to reduce opioid overdose deaths, including by distributing the opioid overdose antidote medication naloxone. California law allows for naloxone to be distributed by people who are not doctors or pharmacists under what are called ‘standing orders,’ including through a [statewide order issued by CDPH](#).

Key Points:

- A licensed health care provider who is authorized to prescribe medication may issue standing orders for the distribution of naloxone to a person at risk of an opioid overdose or to a person who may provide first aid to someone experiencing an opioid overdose.
- SSP staff and volunteers may lawfully possess and dispense naloxone pursuant to a standing order from a licensed prescriber.

Key Points (continued):

- Anyone may lawfully possess naloxone obtained through a standing order without a patient-specific prescription, and may lawfully administer it to someone they believe is experiencing an opioid overdose.
- Pharmacists may dispense naloxone without a prescription.

State Law Excerpt:**Standing Order Naloxone Dispensing and Personal Possession (Civil Code 1714.22):**

(c) (1) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose.

(2) A licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the administration of an opioid antagonist to a person at risk of an opioid-related overdose by a family member, friend, or other person in a position to assist a person experiencing or reasonably suspected of experiencing an opioid overdose.

(f) Notwithstanding any other law, a person who possesses or distributes an opioid antagonist pursuant to a prescription or standing order shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this possession or distribution. Notwithstanding any other law, a person not otherwise licensed to administer an opioid antagonist, but trained as required under paragraph (1) of subdivision (d), who acts with reasonable care in administering an opioid antagonist, in good faith and not for compensation, to a person who is experiencing or is suspected of experiencing an overdose shall not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for this administration.

Nonprescription Naloxone Dispensing by Pharmacists (Business and Professions Code 4052.01):

(a) Notwithstanding any other provision of law, a pharmacist may furnish naloxone hydrochloride in accordance with standardized procedures or protocols developed and approved by both the board and the Medical Board of California, in consultation with the California Society of Addiction Medicine, the California Pharmacists Association, and other appropriate entities.

